

2. Plaintiff filed its Original Complaint against Defendants on May 17, 2022. [Doc. 1]. Defendants filed an Answer and Original Counterclaim against Plaintiff on June 13, 2022. [Doc. 11].
3. Plaintiff's sought leave of Court to file his First Amended Complaint, which was granted by the court on February 22, 2022. [Doc. 72]
4. Defendants were granted leave to file an Answer and Counterclaim in response to Plaintiff's First Amended Complaint on or about March 8, 2023. [Doc. 76].
5. On February 22, 2023, the Plaintiff filed a Motion for Leave to File their Amended Complaint to include additional parties and additional claims. [Doc. 72].
6. The deadline to amend pleadings was July 31, 2023 for Plaintiff and August 31, 2023 for Defendants. [Doc. 74].
7. The deadline for joinder of additional parties is April 7, 2023. [Doc. 74].
8. On September 1, 2023, Defendants served very limited responsive documents to Plaintiff's Requests for Production served on Defendants.
9. As a result of the Defendants' discovery responses served on September 1, 2023, Plaintiff seeks leave to amend his first Amended Original Complaint to join additional parties involved in Defendants misconduct and based on the discovery responses obtained after the pleadings deadline had passed. A copy of Plaintiff's Second Amended Complaint for which Plaintiff seeks leave to file is attached hereto and incorporated herein as Exhibit "A."

Argument

10. Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend its pleading with either the opposing party's written consent or the Court's leave. Fed. R. Civil. Proc. 15(a)(2). The Court should freely give leave when justice so requires. *Id.*
11. If a party discovers evidence needed to prove its new claim after the scheduling order's amendment deadline, it may still amend its pleadings. *See Haddock v. Nationwide Fin. Servs.*, 514 F.Supp.2d 267,271 (D.Conn. 2007). Good cause exists to modify a scheduling order when a party uncovers facts during discovery that support an additional claim or parties. *See Forstmann v. Culp*, 114 F.R.D. 83, 86 n.1 (M.D.N.C. 1987).
12. Under Rule 6(b) the court may extend the time specified for a particular act that must be done for good cause upon request by a party before the deadline expires, or upon motion after the time has expired. (Fed. R. Civil. Proc. 6(b)).
13. During the course of discovery in this matter, Plaintiff uncovered facts that support an additional claim for fraud against two additional Defendants.
14. Josh Black, APFA National Secretary, and Larry Salas, APFA National Vice-President received a copy of the Confidential Memorandum delivered via email by APFA National Treasurer Erik Harris on October 22, 2020, which states that

"Please note the Bob Ross confidential transition agreement states that he will be paid all of his accrued and unused sick, and accrued and unused vacation time. This agreement doesn't specify that the payments be made in accordance

with the policy manual guidelines. Consequently, these payments appear appropriate and in compliance with the transition agreement.”

15. On September 1, 2023, Plaintiff received 99 pages of heavily redacted discovery responses, which included an email communication between the National Officers, inside and outside counsel dated October 22, 2020 that transmitted the Confidential Memo from Woods, Stephens, and O’Neil, LLP.
16. The production of this email during the discovery process brings rise to additional claims that Plaintiff now wishes to assert against additional parties. The testimony establishes that Josh Black, National Secretary, and Larry Salas, National Vice-President received notice that the debt claims were not valid and Ross was paid correctly.
17. The new evidence supports Plaintiff’s new causes of action against new parties for breach of fiduciary duty, common law fraud and defamation. [Appendix 1-14].

Conclusion

18. Based on the above, Plaintiff seeks leave for this Court to extend the deadlines for amendment, joinder, discovery and dispositive motion to that Plaintiff has time to conduct adequate discovery and depositions, as well as it seeks leave to file Plaintiff’s Second Amended Complaint as it is appropriate and necessary.

Prayer

WHEREFORE, for these reasons, Plaintiff, Eugenio Vargas, respectfully asks the Court to enter an order granting an extension of the deadlines to amend and for joinder and grant him leave to file Plaintiff's Second Amended Complaint, and for such other and further relief, at law or in equity, to which Plaintiff, Eugenio Vargas, may show himself to be justly entitled.

Respectfully submitted,

By: /s/ Kerri Phillips

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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I hereby certify that, in accordance with Fed. R. Civ. P. 37(a)(2)(B) and Local Rule 7.1(D), counsel for Plaintiff has in good faith conferred or attempted to confer with counsel for Defendants with regard to the foregoing Motion to Extend Time to File Second Amended Complaint without court action, and counsel for Defendants is not in agreement about the disposition of the above Motion to Extend Time to File Second Amended Complaint.

By: /s/ Kerri Phillips

Kerri Phillips, Esq.

CERTIFICATE OF SERVICE

I certify that on this 27th day of September 2023, a true and correct copy of the foregoing document was served on the below listed counsel of record for Defendants/Counterclaim Plaintiff's by a means permitted by Rule 5(b)(2) of the Federal Rules of Civil Procedure ("F.R.C.P.").

By: /s/ Kerri Phillips
Kerri Phillips, Esq.

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